

Memorandum

TO: Mr. Pete Gutwald, Director, Department of Planning and Zoning

FROM: Jennifer M. Smith, Geosyntec Consultants, Inc.

DATE: January 23, 2008

SUBJECT: Zoning Code Update Meeting 11 – Meeting Summary
January 14, 2008, Second Floor Conference Room
Harford County Office Building

Attendees

Workgroup Members Present:

Ms. Susie Comer
Col. Charles Day
Ms. Carol Deibel
Mr. Bill Vanden Eynden
Mr. Samuel Fielder, Jr.
Mr. Rowan G. Glidden
Mr. Frank Hertsch
Ms. Susan B. Heselton
Mr. Jeffrey K. Hettleman
Mr. Tim Hopkins
Mr. Douglas Howard
Mr. Gil Jones
Mr. Gregory J. Kappler
Mr. Michael Leaf
Ms. Gloria Moon
Mr. Frank Richardson
Mr. Lawrason Sayre
Mr. Jim Turner
Mr. Craig Ward
Ms. Marisa Willis
Mr. Jay Young

Workgroup Members Absent:

Mr. William E. Goforth
Mr. Chris Swain
Mr. Torrence Pierce

County Representatives Present:

Mr. Pete Gutwald, Director, Department of Planning and Zoning

Mr. Tony McClune, Deputy Director, Department of Planning and Zoning

Ms. Janet Gleisner, Chief, Division of Land Use and Transportation

Ms. Theresa Raymond, Administrative Assistant, Director's Office

Facilitators:

Ms. Jennifer M Smith, Geosyntec

Ms. Christy Ciarametaro, Geosyntec

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Meeting Summary

The eleventh meeting of the Harford County Zoning Code Update Workgroup was held at 2:00 pm in the second floor conference room at the offices of the Department of Planning and Zoning. A meeting agenda was distributed to each workgroup member. A sign-in sheet was distributed to the group. The Meeting 10 Summary was distributed for review and approved by the workgroup.

Presentation by DPZ – Chesapeake Bay Critical Area Overlay District

Mr. Pete Gutwald, Harford County's Director of Planning and Zoning, reviewed the changes in the Chesapeake Bay Critical Area Overlay District section of the proposed Zoning Code. The changes are in §267-63. The majority of proposed changes are administrative in order to be consistent with state requirements.

Workgroup Discussion – Chesapeake Bay Critical Area Overlay District:

1. Topic: Chesapeake Bay Critical Area - General Discussion

Discussion:

- One member of the workgroup was concerned that §267-63(F)(4)(c) regarding feeding or watering livestock within 50 feet of tidal waters applied throughout the County. DPZ clarified that section only applies to the Chesapeake Bay Critical Areas.
- A workgroup member stated that multiflora rose is not a noxious weed as listed in §267-63(F)(4)(b). It was suggested the language be changed to state "control noxious weeds and invasive plants and animals."
- A workgroup member suggested stating in §267-63(F)(4)(a) that soil and water conservation plans must be approved by the Soil Conservation District.
- A member of the workgroup questioned whether Harford County's Critical Area regulations were more restrictive than the State's. DPZ clarified that certain areas of the Natural Resource District and Chesapeake Bay Critical Area sections of the proposed zoning code are more restrictive than state requirements, including

buffers for nontidal wetlands and expansion of the Critical Area line to include certain floodplain areas.

- Definition of a Tributary Stream – A workgroup member questioned the exact definition of tributary streams. DPZ stated that the definition of a tributary stream is provided in the definition section of the revised Zoning Code (§267-4) and that tributary streams include intermittent streams and can also be field verified.
- Definition of Growth Allocation – One workgroup member questioned what the appropriate definition for growth allocation is. DPZ stated that the definition is in the Critical Area program information. The workgroup suggested adding this definition to the proposed Zoning Code.
- Fee in lieu – A workgroup member suggested raising the fee for reforestation in the Critical Area from forty cents per square foot to two dollars per square foot.

Result:

- The workgroup agreed to change §267-63(F)(4)(b) to state “control noxious weeds and invasive plants and animals”, removing the reference to specific noxious weeds.
- The workgroup agreed to state in §267-63(F)(4)(a), a “soil and water conservation plan approved by the Harford Soil Conservation District Office.”
- DPZ will add the definition of “growth allocation” to §267-4 Definitions.
- The majority of the workgroup agreed (with dissenting views) to leave the fee in lieu at 40 cents per square foot for reforestation requirements in the Critical Area, as denoted in the revised Zoning Code.

2. Topic: Chesapeake Bay Critical Area – Utility Right of Way

Discussion:

- A workgroup member questioned whether there are any conflicts between the Chesapeake Bay Critical Area requirements in the proposed zoning code and maintenance and installation of gas and electric lines. DPZ said that the State is struggling with how to balance the two concerns, as well. The state typically allows maintenance such as trimming of trees within the Critical Area. However, clearing or removing of trees for the purpose of installation or maintenance of gas and electric lines is an issue still being worked out at the State level.

Result:

- DPZ will research further the conclusions of the State regarding language addressing the clearing or removing of trees for the purpose of installation or maintenance of gas and electric lines.

3. Topic: Chesapeake Bay Critical Area – Zoning Administrator Oversight

Discussion:

- A workgroup member expressed concern that while the Zoning Administrator’s mission statement does not include protecting the environment, that person has sole authority to approve/disapprove or waive actions identified in certain parts of the proposed zoning code. While some actions identified require joint approval by the Zoning Administrator and another agency/individual, some sections, such

as §267-63(F)(3)(b)(4), give strict authority solely to the Zoning Administrator. It was suggested by the member of the workgroup, that all authority, which is currently given strictly to the Zoning Administrator, in the Critical Area Section of the Zoning Code, require oversight by another agency/individual.

- Another workgroup member suggested that the Zoning Administrator authority is provided in order to allow some flexibility for mitigation of development activities in alternate locations.
- There was a general discussion amongst the workgroup on the requirement that all Administrator decisions regarding the Chesapeake Bay Critical Area must be reviewed by the State Critical Area Commission. Additionally, the majority of development plans in the Critical Area must be submitted to the Critical Area Commission for approval thereby providing oversight to the Zoning Administrator's decisions.

Result:

- The majority of the workgroup agreed (with dissenting views) to *not* require additional oversight of the Zoning Administrator for the Chesapeake Bay Critical Area section of the proposed zoning code.

4. Topic: Chesapeake Bay Critical Area – Design Standards

Discussion:

- A workgroup member questioned if the development adjustment and associated design standards referred to in the Natural Resource District §267-62 (F) would apply for habitat protection areas in §267-63(G). DPZ clarified that development adjustment is currently not permitted in the critical area.
- One workgroup member suggested having specific restrictions apply if 30% of a Habitat Protection Area is located within the Chesapeake Bay Critical Area. The DPZ clarified that Habitat Protection Areas located outside the Chesapeake Bay Critical Area would fall under the Natural Resource District regulations.

Result:

- The majority of the workgroup agreed (with dissenting views) to change the language in §267-62(F) to state that “If more than 30% of a parcel zoned residential, as of September 1, 1982, is within this district or is included as a Habitat Protection Area within the Chesapeake Bay Critical Area, the housing types and design requirements, excluding gross density, of the next most dense residential district shall apply, provided that sensitive environmental features on the site are protected.”

5. Topic: Chesapeake Bay Critical Area – Concentrated Animal Feeding Operations (CAFOs) and Municipal Sludge

Discussion:

- A workgroup member suggested adding CAFOs to the list of activities prohibited in the Critical Area in §267-63(E) and prohibiting the spreading of municipal sludge within 2,500 feet of a Critical Area. The workgroup discussed the

appropriateness of the recommendation and whether the workgroup had the scientific knowledge to assess the size of a CAFO buffer. It was recommended that the size of the buffer be established by the EPA or Soil Conservation District. One workgroup member did not believe that the quantification of a CAFO buffer belonged in the zoning code.

- Additionally, the workgroup discussed how CAFO's already fall under separate regulations and the owner must obtain approval for the operation.
- Sludge has to be tested in order to comply with EPA criteria for a variety of pollutants including heavy metals and must be treated before spreading.
- One workgroup member believed that the use of sludge in local areas should be encouraged because it is a natural, non-petroleum based, local source of fertilizer that reduces the carbon emissions caused by transporting other fertilizers to a site.

Result:

- The majority of the workgroup agreed (with dissenting views) not to add regulations regarding CAFOs within the Critical Area and not to add regulations regarding the spreading of sludge within 2,500 feet of a Critical Area.

6. Topic: Chesapeake Bay Critical Area – Nontidal Wetlands Buffer

Discussion:

- There was discussion regarding whether stormwater management facilities should be permitted in the 75 foot nontidal wetland buffer. DPZ clarified that the language in §267-63(G)(4)(b)(5) was only changed in the proposed Zoning Code to make the language more clear. Stormwater management facilities are only permitted if there are no other feasible alternatives. The intent is the same.
- There was discussion regarding the 75 foot nontidal wetland buffer in the critical area. A workgroup member suggested changing the nontidal wetland buffer to 25 feet within the Chesapeake Bay Critical Area to be consistent with the State requirement and the workgroup's recommendation for the wetland buffer within the Natural Resource District.

Result:

- The majority of the workgroup agreed (with dissenting views) to keep the 75 foot nontidal wetland buffer requirement for wetlands located inside the Critical Area.

Presentation by DPZ – Redevelopment and Revitalization

Mr. Pete Gutwald, Harford County's Director of Planning and Zoning, reviewed the changes in the Redevelopment and Revitalization sections of the proposed Zoning Code. The changes are in §267-64, §267-65, §267-74, §267-75, and §267-76.

Workgroup Discussion – Redevelopment and Revitalization:

A workgroup discussion followed Mr. Gutwald's presentation.

1. Topic: Redevelopment and Revitalization - Garden/Mid-Rise Apartments (GMAs)

Discussion:

- One workgroup member questioned why there is a parcel size limit on GMAs. DPZ clarified that the parcel size restrictions are meant to encourage consolidation and reconfiguration of lots. A workgroup member expressed concern that the lot size restrictions are putting constraints on an area which already has limited potential for new development. One workgroup member suggested that more development may occur if there is more flexibility given to follow market demands/trends for designs. It was suggested that the parcel size and density requirements be removed.

Result:

- The workgroup agreed to eliminate the parcel size and density requirements for Garden and Mid-Rise Apartment Dwellings in §267- 74 (D)(2) and (D)(3). .

2. Topic: Redevelopment and Revitalization - Mixed Use

Discussion:

- A workgroup member stated the ideas for the Edgewood area were good and questioned why they were only applied in that area of the County. DPZ stated that mixed use design standards are applied in the U.S. Rte. 40 Commercial Revitalization District (CRD) and Edgewood Neighborhood Overlay District (ENOD) in order to give those areas a competitive advantage to encourage revitalization. It was suggested by a member of the workgroup to allow Mixed Use Centers, Traditional Neighborhood Design and Planned Employment Centers design standards throughout the development envelope.
- A workgroup member suggested additionally allowing mixed use in the B1, GI and R3 districts. Currently it is only allowed in the B2, B3, CI, and R4 districts. It was noted that there are many parcels with multiple zoning classifications on them and the limitations for Mixed Use Centers could be restricted. There was a general discussion on the purpose of the B1 district. Another member of the workgroup stated the B1 district should be left out and if necessary, ask for a change in zoning during the comprehensive zoning process. B1 zoning is less intense and is for neighborhoods; it's separated out for a reason. There was concern about the intensity of a Mixed Use Center on properties with B1 zoning and a Mixed Use Center would have to be over a certain size. It was then suggested by a member of the workgroup that a 5 acre minimum parcel size be required.
- A member of the workgroup suggested glare from lighting should be prevented on all parcels, not just residential. It assumes the use of the parcel will never change.

Result:

- The workgroup agreed to apply Mixed Use Center, Traditional Neighborhood Design and Planned Employment Center design standards throughout the development envelope.
- The majority of the workgroup agreed (with dissenting views) to require a 5 acre minimum parcel size for Mixed Use Centers in the B1, B2, B3, CI, GI, R4 districts.

- The workgroup agreed to remove the word “residential” from the lighting requirement in §267-76(J)(3).

3. Topic: Redevelopment and Revitalization - Rt. 40 CRD

Discussion:

- Residential Uses in Business Districts - There was a general discussion on the required size of a project in order to make it economically feasible to construct. Although buildings can be up to six stories in height, buildings are not being designed that tall because construction costs would be too expensive. Fire code requirements cause mixed use buildings to be costly to construct. The 50% maximum residential square footage in a CRD business district (§267-64(K)) also limits the economic feasibility of a mixed business/residential design.
- Planned Employment Centers - A workgroup member suggested adding service uses along with retail to Planned Employment Centers in the CRD.

Result:

- The workgroup agreed to increase the maximum allowable residential use to 75% of the building square footage in the CRD (§267-64(K)), and Mixed Use Center (§267-76D(2)).
- The workgroup agreed to change “retail uses” to “retail and service uses” in §267-65(G)(3)(a)[5].

4. Topic: Redevelopment and Revitalization - Nursing Homes and Assisted Living Facilities in the Rt. 40 CRD

Discussion:

- There was general discussion about whether the parcel size and density restrictions on Nursing Home and Assisted Living Facilities are appropriate in the Zoning Code.
- A workgroup member suggested that the maximum density of 20 beds per acre of the parcel (§267-75(C)) is too restrictive and should be removed. A workgroup member was concerned that changes to the Zoning Code should be made with consideration that facilities shall still maintain their accreditation. One workgroup member suggested that the any size restriction should be based on the building square footage and not on the parcel size. A workgroup member explained that all Assisted Living Facilities containing more than approximately 15 beds must be licensed by the State of Maryland. This State licensing will address the allowable bed density of the facility. A member of the workgroup also suggested using design standards for institutional uses instead setbacks for the district.

Result:

- The workgroup agreed to eliminate the minimum parcel area and density requirements in §267-75(A) and §267-75(C). The workgroup also agreed to change the language in §267-75(B) to state “design standards” instead of “setbacks”.

At Meeting 12, the workgroup will wrap up the discussion on Redevelopment and Revitalization and discuss the Water Source Protection Sections of the proposed Zoning Code.

Administrative Issues:

The meeting was adjourned at 4:00 pm.

The Harford County Zoning Code website can be accessed at:
<http://www.harfordcountymd.gov/ZCUpdate/index.cfm>.

Meeting Handouts

1. Meeting Agenda
2. Draft Meeting 10 Summary
3. Summary of Changes to the Redevelopment and Revitalization sections of the draft Zoning Code.

Next Scheduled Meetings

Date: January 28, 2008
Time: 2:00 pm - 4:00 pm
Topic: Meeting 12 – Water Source Protection
Location: Harford County Administrative Office Building
220 South Main Street
2nd Floor Conference Room
Bel Air, MD 21014

Date: February 11, 2008
Time: 2:00 pm - 4:00 pm
Topic: Meeting 13 – Water Source Protection
Location: Harford County Administrative Office Building
220 South Main Street
2nd Floor Conference Room
Bel Air, MD 21014